



PATENT
TC 3600

21
Appeal Brief
(3)
Cofor
8-8-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/776,147
Filing Date: 02/05/2001
Applicant: Palmway-Riley, Glenn W.
Group Art Unit: 3643
Examiner: David J Parsley
Title: Fishing hooks and lures

Commissioner of Patents and Trademarks
Washington, D.C. 20231

RECEIVED
AUG 04 2003
GROUP 3600

APPEAL BRIEF

Sir:

Further to the Notice of Appeal filed 06/06/2003 , please consider the arguments and remarks set forth below.

Attachments:

Appendix - Appealed Claims

US2001/0015028A1 - Application under Appeal

U.S. Patent No. 2,384,993 to Goddard et al.

08/01/2003 BSAYASI1 00000108 09776147

01 FC:2402

160.00 OP



APPEAL BRIEF
TC 3600

Real party in interest - The *pro se* applicant named in the caption of the brief in relation to application 09/776,147, a U.S. Citizen resident overseas, is a small entity not represented by a registered practitioner.

Related appeals and interferences - The claimed invention is under examination in the country of Australia Patent Application No. 18289/01.

Status of claims - Claims 1 thru 22 have been rejected, canceled and/or withdrawn.
Claims 23 and 24 are pending and are claims appealed.

Status of amendments - Claims 23 and 24 are the amendments entered subsequent to final rejection by direction of the Examiner.

Summary of invention - Referring to US2001/0015028A1 page 1 [], and FIG. 1 (). The invention as claimed is a fish hook or lure [column 1, 0004 and 0007, column 2, 0013] comprising a body (1) composed of a metal which is exposed for contact with water [column 1, 0006], a winding (3) of metal [column 1, 0006], said winding having a central opening with said body being within the central opening such that the winding extends around the body in multiple turns to form a coil [column 1, 0011], the metal of said winding being exposed for contact with water [column 1, 0006], and a nonconductive insulating layer (2) between the winding and the body [column 2, claim 1b and 6b] to insulate the winding from direct contact with the body [column 1, 0006 and 0008], wherein the winding and the body are of dissimilar metals [column 1, 0008] such that immersion of the hook in water results in the generation of a fish-attracting electromagnetic field as a result of electrolytic action between the two metals [column 1, 0008].

Issues - Application for Patent has been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,384,993 to Goddard et al. Impermissible hindsight and improper 'obvious to try' reasoning in examination fails to acknowledge greater than expected results of the simplistic yet nonobvious inventive step through erroneous interpretation of the prior art which includes disclosures that teach away from the claimed invention and would render the prior art unsatisfactory for its intended purpose with no reasonable expectation of success. Contrary to 35 U.S.C. 103(a), patentability has been negated by manner in which the invention was made.

Grouping of claims - Within judgment of obviousness the claims stand together.

Argument -

The appealed application has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,384,993 to Goddard et al.

In the office action dated 01/14/03 pg. 2 the Examiner erroneously states that Goddard et al. discloses a winding-12 of 'fine color'. Referring to U.S. Patent No. 2,384,993 to Goddard et al., Goddard does disclose a winding of a bright color (column 1 line 15) and of a different color to that of the body (column 2 line 15) and it would be obvious to one skilled in the art that the best method to preserve a bright color in a corrosive environment would be to paint the winding to insure a long-lasting contrast to the body. Goddard et al. also discloses a fine metal strip (columns 1 and 2 line 14) as a winding and it would be obvious to one skilled in the art that fine would suggest delicacy and flexibility to suit its inherent use (i.e. a means of attachment to the hook). Goddard further discloses a strip as the preferred winding which is contrary to the invention now claimed and fails to expressly or impliedly suggest the claimed invention. Referring to the Merriam-Webster's Collegiate Dictionary 'strip' is defined as 'a long narrow piece of a material' and it would be obvious to one skilled in the art that such a material would not be an appropriate material to form a wire coil.

Further, the office action utilizes impermissible hindsight by applying an improper 'obvious to try' rationale in relation to the winding-12, and the hook-6 in Goddard et al. by suggesting that the winding disclosed by Goddard would likely be composed of stainless steel while it is commonly known by those in the art that quality fish hooks are often composed of stainless steel and thus the disclosure of the pending application of dissimilar conductors isolated by a nonconductive insulation layer is in no way rendered obvious. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. Inherency may not be established by probabilities or possibilities where the prior art gives no indication of which parameters are critical and no direction is suggested or implied as to which of many possible choices is likely to be successful.. The mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish obviousness, and the level of skill in the art cannot be relied upon to provide the suggestion to combine references and negative the inventive step and the resulting superior properties over the prior art.

The Examiner further erroneously implies that the body-forming mass-10 of Goddard et al. serves as a nonconductive insulation layer. Goddard does disclose a material (column 2 lines 6 through 8) composed of a filamentous substance desirably of a bright color and in which the hook is rendered buoyant (column 1 lines 15 and 16). Referring to the Merriam-Webster's Collegiate Dictionary 'filamentous' would suggest a noncombustible conductor as the preferred embodiment of the invention and therefor the disclosure in Goddard in no way suggests the currently appealed claims and in fact includes disclosure that both teach away from the appealed claims and offers no reasonable chance for success.

Furthermore as the color and buoyancy of the body-10 of Goddard is essential to the functionality of the disclosed invention (column 1 lines 15 and 16), and the disclosed invention suggests the preferred embodiment of the winding-12 as 'having spaced coils and being of a different color to that of the body-forming mass-10' (column 2 lines 14 and 15) the proposed obviousness would render the prior art invention being modified unsatisfactory for its intended purpose, and thus there is no suggestion or motivation to make the proposed modification.

Goddard et al. Fig 1 and Fig 4 clearly show the winding-12 and the hook-6 directly adjacent to each other and reflects that the prior art in its entirety fails to disclose, suggest or otherwise imply that the body-10 is a nonconductive insulating layer as disclosed in the current application. Therefore, the *prima facie* case can be rebutted by evidence showing that the prior art does not necessarily possess the characteristics of the pending claims and as a whole includes disclosures that teach away from the currently claimed invention.

To support a rejection under 35 U.S.C. § 103, the collective teachings of the prior art must have suggested to one of ordinary skill in the art that, at the time the invention was made, the applicants claimed invention would have been obvious. Motivation to make or use the non-obvious product must be present in the prior art. Obviousness cannot be predicated on what is not known at the time an invention is made even if the inherency of a certain feature is later established.

The office action of 01/14/03 further argues the generation of electromagnetic fields by dissimilar metals is obvious through the prior art. It is commonly known by those of ordinary skill in the art that conductive mediums placed in an electrolyte will produce an electromagnetic field, however none of the prior art relied upon teaches or renders obvious the relationship of winding and core in the production of an enhanced electromagnetic field to attract fish as in the current application. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.

In contrast U.S. Patent No. 4,218,975 to Ream discloses a toroidal coil to create 'an output voltage' as a means for detecting electromagnetic fields and for firing or controlling an ordinance device and in no way renders obvious the currently claimed invention.

In contrast U.S. Patent No. 6,247,261 to Kechriotis discloses an electromagnetic field as the result of galvanic reaction upon a linearly oriented cathode-anode arrangement of metals and similarly fails to teach or render obvious the currently claimed invention.

None of the prior art made of record and not relied upon teaches or renders obvious the claimed invention of the body of exposed metal, the exposed winding disposed around the body and insulated therefrom, with the winding and body being formed from dissimilar metals so as to generate an enhanced electromagnetic field by electrolytic action when the winding and body are exposed to contact with water when immersed therein.

Respectfully submitted
July 24, 2003


Glenn W. Palmway-Riley
Australia 61 (7) 40989177

APPENDIX

Copy of the claims involved in the appeal -

23. A fishing hook comprising a body composed of a metal which is exposed for contact with water, a winding of metal, said winding having a central opening with said body being within the central opening such that the winding extends around the body in multiple turns to form a coil, the metal of said winding being exposed for contact with water, and a nonconductive insulating layer between the winding and the body to insulate the winding from direct contact with the body, wherein the winding and the body are of dissimilar metals such that immersion of the hook in water results in the generation of a fish-attracting electromagnetic field as a result of electrolytic action between the two metals.

24. A fishing hook according to claim 23 wherein the body comprises a rectilinear part having at one end means for attachment of a line and at the other end a hook, wherein the winding is applied to the rectilinear part of the body.

POWER HOOK - FORCE FLIES AND LURES**CROSS-REFERENCE TO RELATED APPLICATIONS**

[0001] Provisional application; Australia No. PQ5745 filed Feb. 22, 2000.

STATEMENT REGARDING FEDERALLY SPONSORED

[0002] "Not Applicable"

REFERENCE TO A MICROFICHE APPENDIX

[0003] "Not Applicable"

BACKGROUND OF THE INVENTION

[0004] This invention relates to improving the traditional fish hook to make the said fish hook attractive to fish through the generation of an enhanced electromagnetic field and to a lure body of similar construction.

[0005] This invention improves upon the traditional inanimate fish hook and simplifies the complex apparatus of traditional electromagnetic generating fishing lures such as described in the U.S. Pat. No. 5,175,950.

SUMMARY OF THE INVENTION

[0006] The invention consists of, in one embodiment, a conductive fish hook with a conductive winding which is both insulated from the said fish hook, and exposed to the water.

[0007] The invention consists of, in another embodiment, a fishing lure of similar characteristics.

[0008] Impure water (such as sea water) acts as an electrolyte to generate differential charges in the two dissimilar conductors (i.e. the fish hook and the winding). The two conductors generate an electromagnetic field which can be attractive to fish.

[0009] The power hook improvement can apply to all variety of conductive fish hooks, insulating layers, and conductive windings to be applied as appropriate, such as, but not limited to, multiple hooks on lures, single hooks for 'force' flies and dead baits, or to give live bait extra appeal.

BRIEF DESCRIPTION OF THE DRAWING

[0010] FIG. 1 is a perspective view of one example of a fish hook embodying the invention.

DETAILED DESCRIPTION OF THE INVENTION

[0011] Referring to FIG. 1, it can be seen that the improved fish hook according to this invention comprises a metallic and/or conductive fishing hook (1), an insulating layer (2), and a conductive winding (3). The hook becomes further powered when immersed in impure water.

[0012] It will be realized that the improvements according to this invention are not restricted to the simplified example as shown in FIG. 1. This simplified example can be adapted to a variety of materials and mode of manufacture to suit angling style or desired field generation, such as, but not limited to, the hook's (1) composition or inherent magnetism, the insulation layer's (2) design or dimension as to affect flotation or permeability, or the conductive winding's (3) modification to vary weight or the type or intensity of field generated, as in multiple windings or rotating coils to generate complex fields.

[0013] In another embodiment of the invention the invention is a fishing lure wherein the fish hook (1) can be substituted with a conductive core with means to attach a fish hook of preferred selection.

I claim that the power hook, force flies and lures consists of:

1. An electromagnetic field generating fish hook comprising;

- a) a conductive fish hook;
- b) an insulating layer;
- c) a conductive winding.

2. The improved fish hook of claim 1 wherein the conductive fish hook component of the invention is modified to vary or enhance the generated electromagnetic field.

3. The improved fish hook of claim 1 wherein the insulating layer component of the invention is modified to vary or enhance the generated electromagnetic field.

4. The improved fish hook of claim 1 wherein the conductive winding component of the invention is modified to vary or enhance the generated electromagnetic field.

5. An electromagnetic field generating fishing fly comprising the improved fish hook of claim 1.

6. An electromagnetic field generating fishing lure comprising;

- a) a conductive core;
- b) an insulating layer;
- c) a conductive winding.

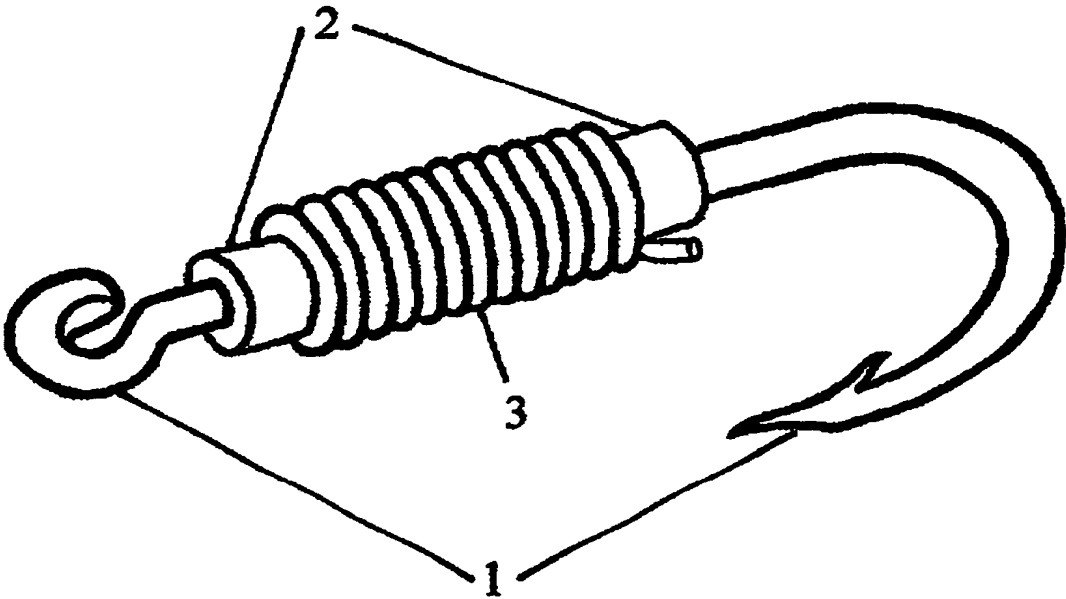
7. The improved fish lure of claim 6 wherein the conductive core component of the invention is modified to vary or enhance the generated electromagnetic field.

8. The improved fish lure of claim 6 wherein the insulating layer component of the invention is modified to vary or enhance the generated electromagnetic field.

9. The improved fish lure of claim 6 wherein the conductive winding component of the invention is modified to vary or enhance the generated electromagnetic field.

10. An improved hook, fly or lure substantially as herein described with reference to the accompanying drawing.

* * * * *



UNITED STATES PATENT OFFICE

2,384,993

ARTIFICIAL BAIT

Alfred W. Goddard and Albert A. Hallett,
Toronto, Ontario, Canada

Application May 15, 1944, Serial No. 535,608

2 Claims. (Cl. 43-48)

The invention relates to improvements in artificial bait and has for its object the provision of a fish lure especially adapted for casting and devised to resemble a fly or similar winged insect and to have articulate wings which when a cast is made will spread and float on the water with a lifelike motion.

A further object of the invention is to produce a highly serviceable and effective casting-fly having novel characteristics of construction in which the shank portion of an ordinary hook is used to form the body of the fly by an attachment of a filamentous material lapped or otherwise applied and including the lapping of a fine metal strip which is desirably of a bright colour and in which said hook is rendered buoyant by the body structure so that its shank lies horizontally on the surface of the water with the bill downturned. The filamentary material may be of a suitable colour and may include fibres loosely extending toward the bill.

A distinctive feature of the invention is that the wings are joined to the body by a pivot or universal joint which permits them to have movement in all directions.

A further distinctive feature is that the wings are composed of hairs and/or feathers, or like substances, and of a colour, or colours, to form an attractive bait.

The selected embodiment of the invention is illustrated in the accompanying drawing, in which:
Fig. 1 is a side view of the bait with the wings folded.

Fig. 2 is a plan view thereof with the wings spread.

Fig. 3 is a detail showing more particularly the manner of connecting the wings to the body.

Fig. 4 is a fragmentary elevation view, partly in section, showing how the tail feathers are secured to the shank by the strip.

Like numerals of reference indicate corresponding parts in each of the figures throughout the drawing.

In carrying out the invention a common fish-hook is used having a shank 5, a bill 6 and an eye 7. The eye is attachable as customary to the line of a casting reel secured to a rod. The portion of the shank adjoining the eye is supplied with a tightly wound lapping of fibrous material, such as a thread, suitable to provide an enlargement constituting a head 8 of a fly. This lapping serves to secure a pair of eyelets 9 to the shank at the immediate rear of said head. Said eyelets are disposed one at each side of the shank with their eye parts extending outwardly

of said head, as will best be seen from an inspection of Fig. 3. The eyelets form part of the means for connecting the wings, as will be more fully explained later.

The bill 6 is downturned and the shank is covered with a body-forming material comprising a lapping of a filamentous substance 10 sufficient to cause the completed body to float. The fibrous material may include a tuft or strands disposed loosely toward the bill, as indicated at 11. The material 10 which is lapped or massed about the shank is coloured and secured in place by suitable means, which preferably consists of a lapping of a fine metal strip 12 having spaced coils and being of a different colour to that of the body-forming mass 10. From the end of the body there projects a coloured tail feather 13, which is secured to the shank by the strip 12.

The depending bill 6 stabilizes the body and maintains it on a substantially even keel when the device is resting on water.

The wings 14 are formed of a light-in-weight buoyant material such as tufts of filamentous elements in the nature of strands of hairs, or otherwise formed as by means of feathers. The wings are of a color or colors preferably of a contrast to those of the body and are attached to the body by an articulated connection which permits them to have universal movement. The connection comprises the provision of eyelets 15 on the wings secured as by a lapping of stranded material 16. The eyelet of a wing is linked with an eyelet 9 aforesaid and provides a swivel juncture which not only permits it to fold and spread but also permits it to rise and fall with surface motion of the water.

In the use of the bait the wings fold alongside of the body in making a cast, and when it comes to rest on the water the wings spread, and any slight jerk or pull on the line causes them to fold with the result that there is an animated effect which simulates a lifelike bait.

It is not intended that the invention shall be restricted to the specific construction of the wing connecting means herein disclosed as other modes of connecting the wings to the body may be resorted to as coming within the spirit and scope of the invention.

What we claim is:

1. A casting-fly bait comprising a hook having a shank with an eye at one end and a bill at the other end, a lapping of filamentary material about said shank adjacent to said eye to form the head of the fly, eyelets secured to the shank by said filamentary material, a lapping of filamentous material about the shank to compose th

body of the fly, a metal strip wound around the filamentous material to secure it to the shank, tufts of a filamentous material forming wings, and eyelets secured to said wings and linked with the eyelets aforesaid to connect them to the shank.

2. A casting-fly bait comprising a hook having a shank with an eye at one end and a bill at the other end, a lapping of filamentary material about said shank adjacent to said eye to form 10

the head of the fly, eyelets on the shank having eye parts extending laterally thereof, a lapping of filamentous material about the shank to compose the body of the fly, a metal strip wound around the filamentous material to secure it to the shank, tufts of a filamentous material forming wings, and eyelets secured to said wings and linked with the eyelets aforesaid to connect them to the shank.

ALFRED W. GODDARD.

ALBERT A. HALLETT.

Sept. 18, 1945.

A. W. GODDARD ET AL

2,384,993

ARTIFICIAL BAIT

Filed May 15, 1944

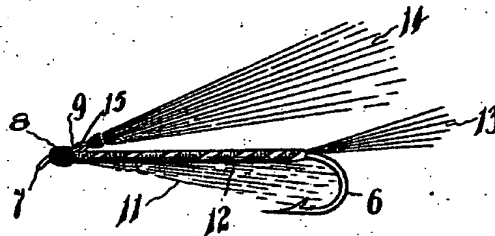


FIG. 1.

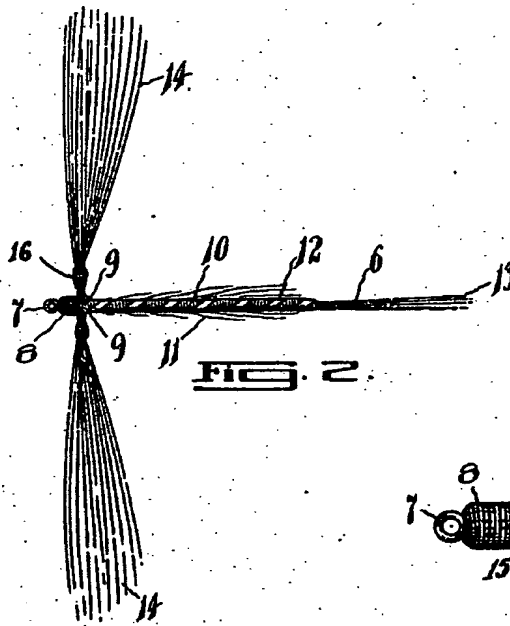


FIG. 2.

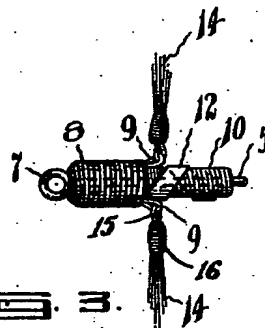


FIG. 3.

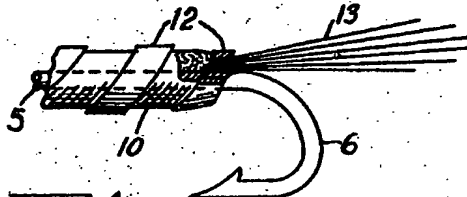


FIG. 4.

INVENTORS
A. W. GODDARD AND
A. A. HALLETT
By *Frederick C. Bromley*
ATTY.